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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,503	08/05/2003	Zoran Krivokapic	H1164	5208
7590 06/11/2004 HARRITY & SNYDER, L.L.P. Suite 300 11240 Waples Mill Road Fairfax, VA 22030			EXAMINER KEBEDE, BROOK	
			ART UNIT 2823	PAPER NUMBER

DATE MAILED: 06/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant(s)

10/633,503

Applicant(s)

KRIVOKAPIC ET AL.

Examiner

Brook Kebede

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14 is/are allowed.
- 6) ☒ Claim(s) 15-18 is/are rejected.
- 7) ☒ Claim(s) 19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of the Claims

1. Claims 1-20 are pending in the application.
2. Claims 1-20 are treated on the merits as set forth herein below.

Drawings

3. New corrected drawings are required in this application because the following reason:

In Figs. 9B and 10B, there is a remark dated on 5/16/03, 15/20/03 and 6/20/03. It appears some corrections must be done on Figs. 9B and 10B. In any event, applicants are advised to submit clean and complete official copy of Figs. 9B and 10B. In addition, the page numbers for the drawing are missing.

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Change the title to --METHOD OF FORMING TRI-GATE FINFET WITH MESA ISOLATION--.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 15 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Krivokapic et al. (US/6,716,684).

The applied reference has a common assignee/inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Re claim 15, Krivokapic et al. disclose a method of forming a tri-gate fin field effect transistor (see Figs. 16A and 16B), comprising: forming an oxide layer (112) over a silicon-on-insulator wafer comprising a silicon layer (see Fig. 2B); etching the silicon (102) and oxide (112) layers using a rectangular mask (110) to form a mesa (122); etching a portion of the mesa (i.e., the mesa 122 etched during cleaning as depicted Fig. 5B) (see Fig. 5B) using a second mask (110) (i.e., the first mask considered to be the oxide layer 112) to form a fin (see Fig. 5B); forming a gate dielectric layer (130) over the

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fin; and forming a tri-gate over the fin and the gate dielectric layer (see Figs. 11 and 16B).

Re claim 17, as applied in claim 15 above, including the limitation wherein a thickness of the oxide layer (112) ranges from 5nm to 15nm (see Col. 2, lines 66-67) (i.e., within the claimed range of about 10 nm to about 15 nm).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being obvious over Krivokapic et al. (US/6,716,684).

The applied reference has a common assignee/inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a)

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might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Re claim 16, as applied to claim 15 in Paragraph 6 above, Krivokapic et al. all the claimed limitations including the limitation wherein a thickness of the silicon layer ranges from about 20 nm to 150 (see Col. 7, lines 6-9) (i.e., within the overlapping claimed range of 10 nm to about 50 nm).

However, the claimed ranges of 10 nm to 19 nm is outside the range of Krivokapic et al. disclosure.

One of ordinary skill in the art would have been motivated to achieve the claimed silicon thickness range by routine optimization in order to achieve the desired device size and performance.

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Notwithstanding, it would have been an obvious matter of design choice bounded by well known manufacturing constraints and ascertainable by routine experimentation and optimization to choose these particular dimensions because applicant has not disclosed that the dimensions are for a particular unobvious purpose, produce an unexpected result, or are otherwise critical, and it appears prima facie that the process would possess utility using another dimension. Indeed, it has been held that mere dimensional limitations are prima facie obvious absent a disclosure that the limitations are for a particular unobvious purpose, produce an unexpected result, or are otherwise critical. See, for example, *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955); *In re Rinehart*, 531 F.2d 1048, 189 USPQ 143 (CCPA 1976); *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984); *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Furthermore, the specification contains no disclosure of either the critical nature of the claimed thickness range or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen dimensions are critical. See *In re Woodruff*, 919, f.2d 1575, 1578, 16 USPQ2d, 1936 (Fed. Cir. 1990).

Re claim 18, as applied to claim 15 in Paragraph 6 above, Krivokapic et al. all the claimed limitations including the limitation the tri-gate having predetermined thickness in the channel region (see Fig. 10A and 16A).

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However, Krivokapic et al. do not specifically disclose wherein a thickness of the tri-gate in a channel region of the fin field effect transistor ranges from about 80 nm to about 120 nm.

One of ordinary skill would have been motivated to from the claimed thickness of the tri-gate in channel region by routine optimization in order to achieve the desired device size and device performance.

Therefore, it would have been an obvious matter of design choice bounded by well known manufacturing constraints and ascertainable by routine experimentation and optimization to choose these particular dimensions because applicant has not disclosed that the dimensions are for a particular unobvious purpose, produce an unexpected result, or are otherwise critical, and it appears prima facie that the process would possess utility using another dimension. Indeed, it has been held that mere dimensional limitations are prima facie obvious absent a disclosure that the limitations are for a particular unobvious purpose, produce an unexpected result, or are otherwise critical. See, for example, *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955); *In re Rinehart*, 531 F.2d 1048, 189 USPQ 143 (CCPA 1976); *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984); *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Furthermore, the specification contains no disclosure of either the critical nature of the claimed channel the tri-gate in the channel region or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen

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dimensions are critical. See *In re Woodruff*, 919, f.2d 1575, 1578, 16 USPQ2d, 1936 (Fed. Cir. 1990).

Allowable Subject Matter

9. Claims 1-14 are allowed over prior art of record.

10. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record neither anticipates nor renders obvious the claimed subject matter of the instant application as a whole either taken alone or in combination, in particular, prior art of record does not teach “forming a dummy gate with a first material in a first pattern over the mesa; forming a first dielectric layer around the dummy gate; removing the first material to create a trench shaped in the first pattern; forming a mask over a portion of the trench and the mesa; etching a portion of the mesa that is exposed within the trench to form a fin,” as recited in claim 1.

Claims 2-14 are also allowed as being dependent of the allowed independent base claim.

11. Claims 19 and 20 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record neither anticipates nor renders obvious the claimed subject matter of the instant application as a whole either taken alone or in combination, in particular, prior art of record does not teach “wherein the etching a portion of the mesa includes, etching a portion of the mesa in a cannel region of the tri-gate fin filed effect transistor,” as recited in claim 19.

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Claim 20 also would be allowable as being dependent upon claim 19.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure Inaba et al. (US/6,525,403), Nowak (US/6,610,576), Fried et al. (US/6,657,252), and Chu et al. (US/2004/0036126) also disclose similar subject matter. However, the prior art does not teach "forming a dummy gate with a first material in a first pattern over the mesa; forming a first dielectric layer around the dummy gate; removing the first material to create a trench shaped in the first pattern; forming a mask over a portion of the trench and the mesa; etching a portion of the mesa that is exposed within the trench to form a fin," as recited in claim 1 either taken alone or in combination.

Remarks

13. Paper copies of the recited U.S. Patents and Patent Application Publications that listed in PTO-892 are not mailed to applicant(s) due to implementation of Electronic Maintenance of Official Patent Application(s) Records. However, the references can be downloaded through the PAIR system.

Correspondence

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brook Kebede whose telephone number is (571) 272-1862. The examiner can normally be reached on 8-5 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on (571) 272-1855. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brook Kebede
Examiner
Art Unit 2823

Brook Kebede

BK
June 8, 2004